BILLS AND NOTES—ACCRUAL OF ACTION.—A promissory note was due April 1 at X Bank. Demand being made and payment refused on that day, suit was commenced after banking hours on the same day. *Held,* the suit was not prematurely brought as the holder's right of action accrued at the expiration of banking hours. *Williams* v. *Cumberland Fertilizer Co.* (Ga. App. 1916), 89 S. E. 1091.

There is a well-defined split of authority in cases of this kind. Where a note is payable generally, the maker has the whole of the day of maturity in which to make payment, since the law does not recognize parts of a day, and suit is prematurely brought if commenced on that day even though it be after a demand and refusal. *Wilcombe* v. *Dodge,* 3 Cal. 260; *Davis* v. *Eppinger,* 18 Cal. 379; *Taylor* v. *Jacoby,* 2 Barr 495; *Bevin* v. *Eldridge,* 2 Miles 353; *Walter* v. *Kirk,* 14 Ill. 55; *Hamilton Co.* v. *Sinker-Davis Co.,* 74 Tex. 51; *Kennedy* v. *Thomas,* L. R. [1894], 2 Q. B. 759. Contra,—on the ground that when the maker of a note makes it payable on a day certain his contract is to pay it on demand on any part of that day if made at reasonable hours, and hence as soon as payment is refused the right of action of the holder accrues and suit may be commenced immediately—*Staples* v. *Bank,* 1 Metc. 43; *Amidown* v. *Woodman,* 31 Me. 581; *Greeley* v. *Thurston,* 4 Greenl. (Me.) 479; *Vandesande* v. *Chapman,* 48 Me. 262; *Pierce* v. *Cate,* 12 Cush. 190; *Wilson* v. *Williman,* 1 Nott & McCord 440; *Coleman* v. *Ewing,* 4 Hump. 240; 2 DANIEL, NEGOT. INSTRS., 1356. But suit brought on that day without demand and refusal is premature. *Estes* v. *Tower,* 102 Mass. 65. Where the note is payable at a bank, some jurisdictions hold in accord with the principal case that the maker's contract is to pay on the day of maturity during banking hours, and hence that the holder's right of action accrues with the expiration of such banking hours. As the maker has agreed to pay at the bank that day, it would seem the time of payment is necessarily limited to the hours within which the bank is open in the due course of business to receive payment. *Osborne* v. *Rogers,* 112 N. Y. 573; *Humphrey* v. *Sutcliffe,* 192 Pa. St. 336. But other cases hold that the maker is entitled to the whole of the day of maturity in which to make payment where the note is payable at a bank even though actual demand and refusal have been made. *Oothout* v. *Ballard,* 41 Barb. 33; *Smith* v. *Aylesworth,* 40 Barb. 104; *Sutcliffe* v. *Humphreys,* 58 N. J. L. 42; *Benson* v. *Adams,* 69 Ind. 353, 35 Am St. Rep. 220; *National Bank* v. *Salina Paper Co.,* 58 Kan. 207.

BILLS AND NOTES—ALTERATION.—A note stipulated that the drawers, indorsers, and sureties waived presentment for payment, protest, and notice of protest and non-payment, and agreed that the time of payment might be extended without their consent and without notice to them without affecting their liability. The bank which held the note innocently and pursuant to an agreement with a signatory thereto for an extension of the time of payment drew a line through the due date and inserted a later date. In suit upon the note brought by the bank *held,* that the alteration was material and destroyed the note as an obligation despite the stipulation. *Caldwell Nat'l Bank* v. *Reep* (Tex. Civ. App. 1916), 188 S. W. 507.

It is well settled that the alteration of the time of payment made on the face of a note is a material alteration and destroys the note as an obligation if made without the consent of the parties thereto. *Stayner* v. *Joyce,* 82 Ind. 35; *Stephens* v. *Graham,* 7 Serg. & R. 505; *Ives* v. *Farmer's Bank,* 84 Mass. 236; *Bowers* v. *Rineard,* 209 Pa. St. 545, 58 Atl. 912; *Master* v. *Miller,* 4 T. R. 320; and that such is the rule whether the alteration was made innocently or with fraudulent intent, *Green* v. *Sneed,* 101 Ala. 205; *Heath* v. *Blake,* 28 N. C. 406; *Bigelow* v. *Stephens,* 35 Vt. 525; and that this applies to sureties as well as to principals, *Stayner* v. *Joyce,* supra; *Ball* v. *Beaumont,* 66 Neb. 56, 92 N. W. 170; *Simons & Co.* v. *McDowell,* 125 Ga. 203, 53 S. E. 1031. Although where the consent of the party is expressly or impliedly given, the alteration does not affect his liability on the note. *Wardlow* v. *List,* 41 Oh. St. 414; *Phillips* v. *Cripp,* 108 Iowa 605, 79 N. W. 373; *Schmelz* v. *Rix,* 95 Va. 509. But it is held in accord with the principal case that since the reason of the above rule is that such an alteration destroys the identity of the contract, changes its legal effect, and destroys or contradicts the party's memoranda of his original contract, the better rule of interpretation of such agreements for extension of time is that it contemplates the making of an agreement additional to that evidenced by the note, and that the party does not thereby either expressly or impliedly give his consent to any alteration of the dates of the instrument. The due date is held to be essential to the preservation of the note as evidence, and to prevent the substitution of another instrument in its place. Though no actual injury might result in certain cases yet the inflexibility of the principle is essential to prevent its possibility. *Brannum Lumber Co.* v. *Pickard,* 33 Ind. App. 484; *Stephens* v. *Graham,* 7 Serg. & R. 505; 2 DANIEL, NEG. INSTR., § 1376. Though this rule would work little or no hardship in those jurisdictions where although the alteration is held to destroy the note as an obligation yet the party is allowed to recover on the original consideration (*Otto* v. *Halff,* 89 Tex. 384, 34 S. W. 910; *Booth* v. *Powers,* 56 N. Y. 31; *Jeffrey* v. *Rosenfeld,* 179 Mass. 506), yet whereas in the instant case the due date in the note was not destroyed or erased but only canceled by a line through it, does not the reason of preservation of the identity of the instrument for evidence of the original contract fail and thereby render such a holding unduly technical?

BILLS AND NOTES—MORTGAGE SECURITY AS AFFECTING NEGOTIABILITY.—Below the signature on a promissory note was an endorsement that it was secured by a mortgage on certain real estate which the endorsement described. The mortgage provided that the mortgagor should pay all taxes, charges, and assessments on the property, pay the cost of abstract of title and keep all the buildings insured to a certain value, with a proviso that in case the mortgagor failed to do so, the mortgagee might and recover the amount paid therefor with 8% interest, for which the mortgage should stand security. In an action in equity by maker against the holder in due course to cancel the note and mortgage for fraud in the inducement, the court *held* for the defendant on the ground that the provision in the mortgage was merely for the better-